

HOUSE BILL REPORT

HB 3039

As Reported by House Committee On:
Select Committee on Hood Canal

Title: An act relating to reducing nitrogen discharges from sewage systems in the Hood Canal aquatic rehabilitation zone.

Brief Description: Reducing nitrogen discharges into an aquatic rehabilitation zone.

Sponsors: Representatives McCoy, Eickmeyer, Sump, Chase, Appleton and B. Sullivan.

Brief History:

Committee Activity:

Select Committee on Hood Canal: 1/24/06, 1/26/06 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Ecology to ensure that sewage systems within Hood Canal Aquatic Rehabilitation Zone (ARZ) One remove nitrogen to the fullest extent practical before issuing or renewing a permit.
- Directs local health officers within ARZ One to designate nitrogen as a contaminant of concern.
- Requires large sewage systems regulated by the Department of Health and on-site sewage systems installed within ARZ One after January 1, 2009, to address nitrogen, and all existing systems installed before January 1, 2009, to address nitrogen by January 1, 2014.

HOUSE COMMITTEE ON SELECT COMMITTEE ON HOOD CANAL

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Eickmeyer, Chair; McCoy, Vice Chair; Appleton and Chase.

Minority Report: Do not pass. Signed by 3 members: Representatives Pearson, Ranking Minority Member; Sump, Assistant Ranking Minority Member and Walsh.

Staff: Jeff Olsen (786-7157).

Background:

Hood Canal

Hood Canal is a glacier-carved fjord approximately 60 miles in length with approximately 180 miles of shoreline. Portions of Hood Canal have had low dissolved oxygen concentrations for many years. In 2005, authority was provided to establish aquatic rehabilitation zones (ARZs) for areas whose surrounding marine water bodies pose serious environmental or public health concerns. The first ARZ, known as ARZ One, was created for the watersheds that drain into Hood Canal south of a line projected from Tala Point in Jefferson County to Foulweather Bluff in Kitsap County.

Federal Law

The federal Clean Water Act (CWA) sets a national goal to restore and maintain the chemical, physical, and biological integrity of the nation's waters and to eliminate pollutant discharges into navigable waters. Among other requirements, the CWA sets effluent limits on discharges of pollutants to navigable waters and requires states to adopt surface water quality standards to protect humans, fish, and other aquatic life. The CWA also establishes the National Pollutant Discharge Elimination System (NPDES) permit program to regulate certain wastewater and stormwater discharges.

State Permit Program

The Department of Ecology (DOE) administers a state program for discharge of pollutants to state waters from municipalities or from commercial or industrial operations. The DOE also administers the federal NPDES permit program under a delegation of authority from the U.S. Environmental Protection Agency. The DOE issues both individual permits (covering single, specific activities or facilities) and general permits (covering a category of similar dischargers) in the state and NPDES permit programs.

On-site Systems

The State Board of Health has adopted rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, including on-site sewage systems (OSS). Permits are required for the installation, alteration, extension, or relocation of an OSS. Local boards of health issue OSS permits, enforce the standards, and may adopt more stringent local standards.

Summary of Substitute Bill:

The DOE must ensure sewage systems within ARZ One remove nitrogen to the fullest extent practical before issuing or renewing a permit. Existing permittees may have a compliance schedule established by the DOE to adopt nitrogen removal treatment. The schedule must be as short as possible and may not extend beyond January 1, 2014. Any new or replacement system permitted after the effective date of the Act must install nitrogen removing treatment before a permit may be granted.

Local health officers within ARZ One must designate nitrogen as a contaminant of concern. The Department of Health (DOH) and local health officers must require that on-site sewage

systems address nitrogen before being approved for use. Any OSS installed or repaired after January 1, 2009, must address nitrogen. All existing systems installed before January 1, 2009, must address nitrogen by January 1, 2014.

If the DOH finds that systems to treat nitrogen have not been approved, have limited performance, or are prohibitively expensive, the DOH may extend the compliance deadlines by three years. If the DOH authorizes the extension, it must report its findings to the appropriate committees of the Legislature.

The DOE must offer financial and technical assistance to local governments and tribal entities within ARZ One to establish or expand on-site sewer system repair and replacement loan and grant programs. The programs shall give priority to low-income home owners and award grants based on financial need.

Substitute Bill Compared to Original Bill:

Clarifies that local health officers are designating nitrogen as a contaminant of concern in ARZ One established in Hood Canal for purposes of OSS rules. Requires systems regulated by the DOH to address nitrogen. Directs the DOE to offer financial and technical assistance to local governments and tribal entities within ARZ One to establish or expand on-site sewer system repair and replacement loan and grant programs.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (In support) Estimates are that 60 percent of the amount of human-caused nitrogen in Hood Canal comes from on-site sewage systems. Excess nitrogen is contributing to the low dissolved oxygen problem. The Hood Canal has changed significantly over the past 20 years. The low dissolved oxygen is harming marine life. Hood Canal does not have enough natural mixing and is sensitive to excess nitrogen. The bill allows flexibility based on risk, and there are extensions provided for in the bill. Conventional septic systems don't address the problem, and new technology is available. While there may be some debate regarding how much each factor contributes to the overall problem, this is an issue we can address. There needs to be some technical amendments to add systems regulated by the DOH.

(With concerns) While it is important to protect and restore Hood Canal, there are concerns about costs to homeowners. Retrofitting systems could cost between \$7,000 and \$10,000 for each system. There are other factors contributing to the problems in Hood Canal, and septic systems are only a small part of the problem. There needs to be funding to assist in implementing the bill for homeowners. The area needing regulation should be targeted, and

there may need to be more time to comply. Upland systems and some current functioning systems may not be contributing to the problem.

Testimony Against: Regulations for nitrogen are unnecessary and will increase the costs for homeowners. Current rules allow local health officers to address this issue. There need to be more studies conducted before changing the regulations. Kitsap County has recently conducted research on the contributions of nitrogen from on-site systems in Hood Canal. The research indicates that functioning on-site systems are not contributing significant amounts of nitrogen. Discharges are similar to amounts seen for drinking water, ranging from three to 10 parts per million.

Persons Testifying: (In support) Maryanne Guichard, Department of Health; Melodie Selby, Department of Ecology; Keith Dublanica, Skokomish Indian Nation; Craig McLaughlin, State Board of Health; Miguel Perez-Gibson, Puget Soundkeeper Alliance; Sarah Dzinbal, Department of Natural Resources; Bruce Justinen, Seasoft Scuba; and Terry Hull, Puget Sound Action Team.

(With concerns) Ron Gold, Mason County Public Utility District #1.

(Opposed) Jennifer Kunkel, Building Industry Association of Washington; and Keith Grellner, Kitsap County Health District.

Persons Signed In To Testify But Not Testifying: None.